



Federal Communications Commission  
Washington, D.C. 20554

October 21, 2005

**DA 05-2740**

**Released: October 21, 2005**

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Libco, Inc.  
WAVE(TV)  
2215 B Renaissance Drive  
Suite 5  
Las Vegas, Nevada 89119

Re: Libco, Inc.  
WAVE(TV), Louisville, Kentucky  
Facility ID No. 13989  
File No. BRCT-20050401AVR

Dear Licensee:

This refers to your license renewal application for station WAVE(TV), Louisville, Kentucky.

Under the Commission's rules implementing the Children's Television Act of 1990 (CTA),<sup>1</sup> each television broadcast station licensee has an obligation, during its license term, to air programming that serves the educational and informational needs of children through both the licensee's overall programming and programming "specifically designed" to educate and inform children (core programming).<sup>2</sup> Section 73.671 of the Commission's Rules (Rules) provides that, in order to qualify as core programming, a show must have serving the educational and informational needs of children ages 16 and under as a significant purpose.<sup>3</sup> In addition, a core program must be a regularly scheduled, weekly program of at least 30 minutes, and aired between 7:00 a.m. and 10 p.m.<sup>4</sup> Further, the licensee's Children's Television Programming Report (FCC Form 398) must specify the educational and informational objective and target child audience.<sup>5</sup> In addition, the licensee must provide to publishers of program guides,

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<sup>1</sup> Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394.

<sup>2</sup> 47 C.F.R. § 73.671(a).

<sup>3</sup> 47 C.F.R. § 73.671(c)(1).

<sup>4</sup> 47 C.F.R. § 73.671(c)(2-4).

<sup>5</sup> 47 C.F.R. § 73.671(c)(5).

instructions for listing the program as educational/informational, including an indication of the age group for which the program is intended.<sup>6</sup>

Moreover, the Commission's rules require commercial licensees to provide information to the public about the shows they air to fulfill their obligation. Section 73.3526(e)(11)(iii) of the Rules requires each commercial television broadcast station to prepare and place in its public inspection file a Children's Television Programming Report for each calendar quarter reflecting, *inter alia*, the efforts it has made during the quarter to serve the educational needs of children. As set forth in Section 73.3526, licensees are also required to file the reports with the Commission and to publicize the existence and location of the reports.

On April 1, 2005, you filed a renewal application (FCC Form 303-S) for station WAVE(TV), Louisville, Kentucky (File No. BRCT-20050401AVR). In response to Section IV, Question 10 of that application, you certified that WAVE(TV) failed to publicize the existence and location of the station's Children's Television Programming Reports, as set forth in Section 73.3526(e)(11)(iii) of the Rules. In Exhibit 25 to the renewal application, you reported that the station did not publicize the existence and location of its Children's Television Programming Reports from January 2004 through February 2005. You stated that station WAVE(TV)'s on-air announcement publicizing the existence and location of its Children's Television Programming Reports was inadvertently omitted from the station's programming in January due to the implementation of a new computerized traffic system. You claimed that this violation was discovered in February 2005 and that the station took immediate steps to publicize the existence and location of its Children's Television Programming Reports. Moreover, you described corrective measures taken to ensure future compliance.

Based upon the record before us, the violations described in your renewal application appear to have been isolated occurrences. Although we do not rule out more severe sanctions for violations of this nature in the future, we have determined that an admonition is appropriate at this time. Therefore, based upon the facts and circumstances before us, we ADMONISH you for the admitted violations of Section 73.3526(e)(11)(iii) of the Rules described in station WAVE(TV)'s renewal application.

In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 309(k). Section 309(k) provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Communications Act or the Commission's Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.<sup>7</sup> If, however, the licensee fails to meet that standard, the Commission may

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<sup>6</sup> 47 C.F.R. §§ 73.671(c)(6), 73.673.

<sup>7</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Order, Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, 11 FCC Red 6363 (1996).

deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”<sup>8</sup>

On balance, we find that Libco, Inc.’s violation of Section 73.3526 does not constitute a “serious violation” of the Commission’s rules warranting designation for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, evidence a pattern of abuse. Further, we find that station WAVE(TV) served the public interest, convenience, and necessity during the subject license term.

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to Libco, Inc. at the address listed above, and to its counsel, Scott S. Patrick, Esquire, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

Finally, IT IS ORDERED that, the application (File No. BRCT-20050401AVR) of Libco, Inc. for renewal of license for station WAVE(TV), Louisville, Kentucky, IS GRANTED.

Sincerely,

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>8</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).